

REMARKS

In the Office Action¹, the Examiner rejected claims 1 and 3-31 under 35 U.S.C. §103(a) as being anticipated by "Microsoft Windows XP Operating System" ("Microsoft") in view of Karp, David A. et al, "Windows XP in a Nutshell," April 2002, O'Reilly First Edition ("Karp"); and rejected claims 3-7, 20, and 21 under 35 U.S.C. §103(a) as being obvious over combinations of *Microsoft*, *Karp*, and U.S. Patent Application Publication 2004/0243616 to Benhase et al. ("Benhase").

Claims 1 and 3-37 are pending in the application.

I. Regarding claims 32-37

Applicants note that the Office Action does not address claims 32-37, which were added by Applicants' Amendment filed October 17, 2007. Applicants respectfully request that the Examiner issue a non-final Office Action that addresses claims 32-37.

II. Regarding the rejection of claims 1 and 3-31 under 35 U.S.C. § 103(a) as being unpatentable over Microsoft in view of Karp

Applicants respectfully request that the Examiner reconsider and withdraw the rejection of claims 1 and 3-31 because a *prima facie* case of obviousness has not been established with respect to these claims.

The key to supporting any rejection under 35 U.S.C. § 103 is the clear articulation of the reason(s) why the claimed invention would have been obvious.

¹ The Office Action contains a number of statements reflecting characterizations of the related art and the claims. Regardless of whether any such statement is identified herein, Applicants decline to automatically subscribe to any statement or characterization in the Office Action.

Such an analysis should be made explicit and cannot be premised upon mere conclusory statements. M.P.E.P. § 2142, 8th Ed., Rev. 6 (September 2007). “A conclusion of obviousness requires that the reference(s) relied upon be enabling in that it put the public in possession of the claimed invention.” M.P.E.P. § 2145. “[T]he framework for objective analysis for determining obviousness under 35 U.S.C. § 103 is stated in *Graham v. John Deere Co.*, 383 U.S. 1, 148 U.S.P.Q. 459 (1966). . . . The factual inquiries . . . [include determining the scope and content of the prior art and] . . . [a]scertaining the differences between the claimed invention and the prior art.” M.P.E.P. § 2141(II). “Office personnel must explain why the difference(s) between the prior art and the claimed invention would have been obvious to one of ordinary skill in the art.” M.P.E.P. § 2141(III). A *prima facie* case of obviousness has not been established because the rejections under 35 U.S.C. § 103(a) are not properly supported by a clear articulation of why the claimed invention would have been obvious.

For example, claim 1, as amended, recites a computer program product including, for example, instructions operable to cause a data processing apparatus to execute a method comprising:

detecting a user navigation input comprising one of a forward user navigation input or a backward user navigation input, a forward user navigation input comprising a forward modifier key press combined with a key press of a group identifier character, and a backward user navigation input comprising a backward modifier key press combined with a key press of a group identifier character;

wherein, when the user navigation input is detected:

determining a target group that corresponds to the group identifier key press. (emphasis added)

The prior art fails to teach at least these elements.

The Examiner alleges that the use of arrow, Tab, and Shift + Tab keys, as disclosed in *Microsoft*, constitutes the claimed forward and backward user navigation inputs, which both comprise a key press of a group identifier character. (Office Action at page 4). This is not correct.

Because the arrow, Tab, and Shift + Tab keys are not character keys, a user pressing these keys cannot constitute a key press of a group identifier character. For at least this reason, *Microsoft* does not teach or suggest “a forward user navigation input comprising a forward modifier key press combined with a key press of a group identifier character, and a backward user navigation input comprising a backward modifier key press combined with a key press of a group identifier character,” as recited in claim 1.

The Examiner further alleges that:

[o]ne of ordinary skill in the art would realize that Microsoft in view of Karp teaches a current group and target group as depicted in figure 3, such as when the user presses ALT the user is in the current group (parent group control UI elements) pending on the user desire of which menu group to activate the user can select groups using the forward navigation button (right arrow; on the keyboard) to go through the current group being that this is the target group however if this is not the target group of the user then pressing the sibling forward navigation button (down arrow; on the keyboard) will go through in a forward manner to next control elements in this target group. (Office Action at page 5).

Thus, the Examiner seems to allege that the claimed invention would have been obvious to one of ordinary skill in the art because *Microsoft*, in view of *Karp*, discloses that the user determines the target group mentally and then presses appropriate arrow keys. This is not correct.

Arrow keys are not character keys and, therefore, cannot constitute a group identifier character. Moreover, in *Microsoft*, the arrow keys are pressed after and in response to the mental target group determination. In contrast, the claimed invention determines the target group based on the group identifier key press in the form of a character key press. Therefore, the Examiner has failed to articulate why it would have been obvious to one of ordinary skill in the art to “determin[e] a target group that corresponds to the group identifier key press,” as recited in claim 1.

Finally, the Examiner offers “[a]dditional references which exhibit what was commonly known in the art . . . herein referred to as ‘Delphi’, to support the Examiner’s assertion that group identifiers are commonly known and widely used in the art.” (Office Action at page 6). The “Delphi” reference discloses that each object within the Windows 95 shell “has a unique item identifier within its container . . . and an object is uniquely identified within the namespace by the list of item identifiers from the root of the namespace - the Desktop - all the containers of the object, and the object itself.” (page 1, ¶ 1). The “Delphi” reference thus discloses the unique identification of objects through a list of item identifiers, not through the use of a single “group identifier character,” as recited in claim 1. Therefore, the “Delphi” reference does not render obvious the use of

group identifier characters for forward and backward user navigation, as recited in claim 1.

In view of the mischaracterization of the references, as set forth above, neither the scope and content of the prior art nor the differences between the prior art and Applicants' claims have been properly determined. Thus, the Office Action has failed to clearly articulate a reason why the claimed invention would have been obvious to one of ordinary skill in the art and has failed to establish a *prima facie* case of obviousness with respect to claim 1. Accordingly, the rejection of claim 1 under 35 U.S.C. § 103(a) as being unpatentable over *Microsoft* and *Karp* is improper.

Independent claims 9, 13, 18, 23, and 27, while of different scope, recite elements similar to those of claim 1 and are thus allowable over *Microsoft* and *Karp* for at least the same reasons discussed above with respect to claim 1. Claims 3-8 depend from claim 1, claims 10-12 depend from claim 9, claims 14-17 depend from claim 13, claims 19-22 depend from claim 18, claims 24-26 depend from claim 23, and claims 28-31 depend from claim 27. These dependent claims therefore require all of the elements recited in their respective base claims. Accordingly, claims 3-8, 10-12, 14-17, 19-22, 24-26, and 28-31 are not obvious in view of the cited references at least due to their dependence from claims 1, 9, 13, 18, 23, and 27. Thus, no *prima facie* case of obviousness has been established.

III. Regarding the rejection of claims 3-7, 20, and 21 under 35 U.S.C. § 103(a) as being unpatentable over Microsoft in view of Karp further in view of Benhase

Applicants respectfully request that the Examiner reconsider and withdraw the rejection of claims 3-7, 20, and 21 because a *prima facie* case of obviousness has not been established with respect to these claims.

The Examiner relies on *Benhase* for allegedly disclosing the various elements recited in claims 3-7, 20, and 21. (Office Action at pages 16-17). Even assuming this allegation is correct, which Applicants do not concede, *Benhase* does not cure the deficiencies of *Microsoft* and *Karp* noted above. That is, *Benhase* does not teach or suggest “the forward user navigation input comprises a forward modifier key press combined with a key press of a first group identifier character, and the backward user navigation input comprises a backward modifier key press combined with a key press of a second group identifier character” and ““determining a target group that corresponds to the group identifier key press,” as recited by independent claim 1, and similarly recited by independent claim 18, and required by dependent claims 3-7, 20, and 21.

Contrary to the Examiner’s allegations, the prior art, when taken alone or in combination, fails to teach or suggest each and every element recited by independent claims 1 and 18 and required by dependent claims 3-7, 20, and 21. Thus, neither the scope and content of the prior art nor the differences between the prior art and Applicants’ claims have been properly determined. The Office Action has therefore failed to clearly articulate a reason why the claimed invention would have been obvious to one of ordinary skill in the art and has failed to establish a *prima facie* case of

obviousness with respect to claims 3-7, 20, and 21. Accordingly, Applicants respectfully request that the Examiner withdraw the rejection of claims 3-7, 20, and 21 under 35 U.S.C. § 103(a) as being unpatentable over *Microsoft* in view of *Karp* further in view of *Benhase*.

IV. Conclusion

In view of the remarks, Applicants respectfully request reconsideration and reexamination of this application and the timely allowance of the pending claims.

Please grant any extensions of time required to enter this response and charge any additional required fees to our deposit account 06-0916.

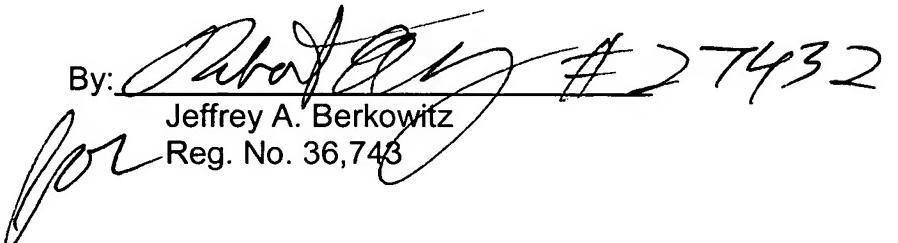
Respectfully submitted,

FINNEGAN, HENDERSON, FARABOW,
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Dated: March 6, 2008

By:

Jeffrey A. Berkowitz
Reg. No. 36,743



A handwritten signature in black ink, appearing to read "Jeffrey A. Berkowitz" followed by a large number "36,743". Above the signature, the word "By:" is written. Below the signature, the name "Jeffrey A. Berkowitz" and the registration number "Reg. No. 36,743" are printed.